

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CAROLYN JULETTE CURRY,

Petitioner,

v.

Case No. 07-14695
Honorable Paul D. Borman

CLARICE STOVALL,

Respondent.

/

ORDER GRANTING PETITIONER'S
MOTION FOR LEAVE TO AMEND BRIEF IN SUPPORT OF
WRIT OF HABEAS CORPUS PETITION

On November 1, 2007, Petitioner Carolyn Julette Curry, a state inmate currently incarcerated at the Robert Scott Correctional Facility in Plymouth, Michigan, filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Docket # 1.) Before the Court now is Petitioner's "Motion To Amend Pursuant To Rule Of Civil Procedure 15(a)." (Docket #10.)

In response to Petitioner's petition, on November 27, 2007, the Court ordered that Respondent file her response to the petition by May 27, 2008. (Docket # 4.) Then, on December 26, 2007, Petitioner filed a motion to hold her case in abeyance, so that she could return to state court to exhaust various unexhausted claims. (Docket # 5.) On January 3, 2008, the Court granted that motion and administratively closed the case. (Docket # 6.) In that order, however, the Court imposed a time limit in which Petitioner was to present her claims to the state courts and then return to this Court to reopen her habeas corpus proceedings—she was to present her unexhausted claims to the state courts within sixty (60) days of the Court's order, and, subsequently, she was to ask the Court to lift the stay within sixty (60) days of exhausting her

state-court remedies.

Petitioner complied with the Court's order; on February 21, 2008, Petitioner filed a motion to rescind the stay, which the Court granted on March 10, 2008. (Dockets ## 8 and 9.) At that time, the Court also ordered Respondent to file a response to the petition by September 7, 2008. Petitioner is now asking the Court for permission to amend her petition.

A party may amend his pleading "once as a matter of course before being served with a responsive pleading." Fed.R.Civ.P. 15(a)(1)(A). "In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave." Fed.R.Civ.P. 15(a)(2).

Respondent has not yet filed an answer to the habeas petition-response not due until September 7, 2008. Therefore, Petitioner may amend her habeas petition only with the Court's permission. Fed.R.Civ.P. 15(a)(2). Leave to amend should be freely given when justice so requires. *Id.*

Against that backdrop, Petitioner's motion to amend [Docket # 10] is **GRANTED**, and the Court deems the attached amended petition as filed. Respondent has an additional thirty (30) days in which to file her answer to the amended petition. Respondent's response is now due on October 7, 2008.

Accordingly, the Court **GRANTS** Petitioner's motion to amend her brief in support of her writ of habeas corpus petition, and the proposed amended petition, which is attached to the motion to amend, is accepted as filed (Docket # 10).

IT IS SO ORDERED.

s/Paul D. Borman

PAUL D. BORMAN

UNITED STATES DISTRICT JUDGE

Dated: August 28, 2008

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on August 28, 2008.

s/Denise Goodine

Case Manager